

# Union Calendar No. 269

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3336

**[Report No. 112-390]**

To ensure the exclusion of small lenders from certain regulations of the  
Dodd-Frank Act.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2011

Mrs. HARTZLER introduced the following bill; which was referred to the  
Committee on Agriculture

FEBRUARY 8, 2012

Additional sponsors: Mr. HOLDEN and Mr. MCINTYRE

FEBRUARY 8, 2012

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

# **A BILL**

To ensure the exclusion of small lenders from certain  
regulations of the Dodd-Frank Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Small Business Credit  
5       Availability Act”.

6       **SEC. 2. CLARIFICATION OF SWAP DEALER DEFINITION.**

7       Section 1a(49)(A) of the Commodity Exchange Act  
8       (7 U.S.C. 1a(49)(A)) is amended by striking all that fol-  
9       lows clause (iv) and inserting the following flush language:

10               “provided however, in no event shall an insured  
11               depository institution or an institution char-  
12               tered and operating under the Farm Credit Act  
13               of 1971 be considered to be a swap dealer to  
14               the extent that it enters into a swap—

15                       “(I) with a customer that is seeking  
16                       to manage risk in connection with an ex-  
17                       tension of credit by the institution to, on  
18                       behalf of, or for the benefit of, the cus-  
19                       tomer; or

20                       “(II) to offset the risks arising from  
21                       a swap that meets the requirement of sub-  
22                       clause (I).”.

1 **SEC. 3. EXCLUSIONS FROM FINANCIAL ENTITY DEFINITION.**

2 Section 2(h)(7)(C)(ii) of the Commodity Exchange  
3 Act (~~7 U.S.C. 2(h)(7)(C)(ii)~~) is amended to read as fol-  
4 lows:

5 “(ii) **EXCLUSION.**—Such definition  
6 shall not include an entity that is a small  
7 bank, savings association, farm credit sys-  
8 tem institution, or credit union if—

9 “(I) the total assets of the entity  
10 are \$30,000,000,000 or less; or

11 “(II) the aggregate uncollatera-  
12 lized outward exposure plus aggregate  
13 potential outward exposure of the en-  
14 tity with respect to its swaps does not  
15 exceed \$1,000,000,000.”.

16 **SEC. 4. EFFECTIVE DATE.**

17 The amendments made by this Act shall take effect  
18 as if they had been included in subtitle A of title VII of  
19 the Dodd-Frank Wall Street Reform and Consumer Pro-  
20 tection Act.

21 **SECTION 1. SHORT TITLE.**

22 *This Act may be cited as the “Small Business Credit*  
23 *Availability Act”.*

1 **SEC. 2. CLARIFICATION OF SWAP DEALER DEFINITION.**

2        *Section 1a(49)(A) of the Commodity Exchange Act (7*  
 3 *U.S.C. 1a(49)(A)) is amended by striking all that follows*  
 4 *clause (iv) and inserting the following flush language:*

5                *“provided however, in no event shall an insured*  
 6 *depository institution or an institution chartered*  
 7 *and operating under the Farm Credit Act of*  
 8 *1971 be considered to be a swap dealer to the ex-*  
 9 *tent that it enters into a swap—*

10                *“(I) with a customer that is seeking to*  
 11 *manage risk in connection with an exten-*  
 12 *sion of credit by the institution to, on behalf*  
 13 *of, or for the benefit of, the customer; or*

14                *“(II) to offset the risks arising from a*  
 15 *swap that meets the requirement of sub-*  
 16 *clause (I).”.*

17 **SEC. 3. EXCLUSIONS FROM FINANCIAL ENTITY DEFINITION.**

18        *Section 2(h)(7)(C)(ii) of the Commodity Exchange Act*  
 19 *(7 U.S.C. 2(h)(7)(C)(ii)) is amended to read as follows:*

20                *“(ii) EXCLUSION.—Such definition*  
 21 *shall not include an entity that is a small*  
 22 *bank, savings association, farm credit sys-*  
 23 *tem institution, non-profit cooperative lend-*  
 24 *er controlled by electric cooperatives, or*  
 25 *credit union if the aggregate*  
 26 *uncollateralized outward exposure plus ag-*

1                    *gregate potential outward exposure of the*  
2                    *entity with respect to its swaps does not ex-*  
3                    *ceed \$1,000,000,000.”.*

4    **SEC. 4. EFFECTIVE DATE.**

5            *The amendments made by this Act shall take effect as*  
6    *if they had been included in subtitle A of title VII of the*  
7    *Dodd-Frank Wall Street Reform and Consumer Protection*  
8    *Act.*

9    **SEC. 5. IMPLEMENTATION.**

10          *The amendments made by this Act shall be imple-*  
11    *mented—*

12                  *(1) without regard to—*

13                    *(A) chapter 35 of title 44, United States*  
14                  *Code; and*

15                    *(B) the notice and comment provisions of*  
16                  *section 553 of title 5, United States Code; and*

17                  *(2) through the promulgation of an interim final*  
18                  *rule.*



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